



United States
of America

Congressional Record

PROCEEDINGS AND DEBATES OF THE 116th CONGRESS, SECOND SESSION

Vol. 166

WASHINGTON, WEDNESDAY, SEPTEMBER 23, 2020

No. 165

Senate

The Senate met at 10 a.m. and was called to order by the President pro tempore (Mr. GRASSLEY).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Gracious God, empower our lawmakers to grow in grace. Make them gentle yet brave, confident yet humble, wise yet dependent on Your guidance. Lord, give them the wisdom to cultivate a faith that perseveres, keeping them from growing weary in doing what is right. Strengthen their ability to see among their colleagues Your divine image. May our Senators increase in favor with You and humanity. Fill them with a passion to live for Your glory.

We praise You for being our helper, and we desire to magnify Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The President pro tempore led the Pledge of Allegiance, as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

The PRESIDING OFFICER (Mrs. LOEFFLER). The Senator from Iowa.

Mr. GRASSLEY. Madam President, I ask unanimous consent to speak for 1 minute in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

MULTIEMPLOYER PENSION SYSTEM

Mr. GRASSLEY. Madam President, quite often in our newspapers, you can read about a lot of city and State pension funds that are in trouble. There is one at the national level we have to deal with, so today I speak about the multiemployer pension system problems and the need for reform.

According to the Pension Benefit Guaranty Corporation's annual projections—and those reports were released last week—there is a very big need for reform. That is as important as ever and getting more important every day.

The report estimates that the Multiemployer Insurance Program will become insolvent in 2026. That is a year later than predicted last year, so people might feel a little more comfort, but that is only because we gave relief last year to the mineworkers' plan. What is worse is that insolvency will come at the same time that the Central States Pension Fund will become insolvent, then creating an even bigger strain on the PBGC's insurance fund.

Reaching a bipartisan reform agreement continues to be critically important. I am very encouraged by recent indications from my Democratic colleagues that they are interested in working with us to find a solution—a solution that will strengthen this important part of our retirement system while ensuring that taxpayers aren't left holding the bag again in the future.

I yield the floor.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The senior assistant legislative clerk proceeded to call the roll.

Mr. McCONNELL. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDING OFFICER. The majority leader is recognized.

JUDICIAL NOMINATIONS

Mr. McCONNELL. Madam President, 2 days ago, the Democratic leader threatened that if the Senate majority

dares to play by the rules and behave like a majority, it would mean “the end of this supposedly great deliberative body”—“the end of this supposedly great deliberative body.”

Yesterday, we learned what he meant. We saw important Senate business hurt by what amounted to a temper tantrum. For some reason, the Democratic leader decided to vent his frustration by blocking the Intelligence Committee—listen to this—from holding a bipartisan counterintelligence hearing—by blocking the Intelligence Committee from holding a bipartisan counterintelligence hearing.

The committee was set to hear from Bill Evanina, the Director of the National Counterintelligence and Security Center. This is the Nation's top counterintelligence official. Among other things, he works directly on protecting our elections and our politics from foreign interference. That is his job. They were going to hear from him.

This is the same Democratic leader who declared a few weeks ago that if the Intelligence Committee did not stay close to Congress on election security, it would be “an abdication of [their] duty . . . to protect our democracy.” Just last week, he wrote me a letter saying election security had to be “above partisan politics.” But now the Democratic leader's temper is more important. He denied Chairman RUBIO routine permission for the bipartisan committee to meet. He said: “[W]e won't have business as usual here in the Senate.”

Today, both the Intelligence Committee and the Armed Services Committee are scheduled to meet. They are set to speak with top intelligence and military officials about election security. I guess we will find out whether the Democratic leader's embarrassing theatrics were just a 1-day matinee or whether he means to make this a series.

Our bipartisan committees have a great deal of work to do to safeguard

● This “bullet” symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.



Printed on recycled paper.

S5795

our Nation and, in particular, to protect our elections, so I hope our colleague from New York gets out of the way.

But the Democratic leader didn't stop there. A few minutes later, he decided to cheapen a solemn and unifying moment and turned a draft unanimous resolution honoring Justice Ginsburg into one more depressing stunt for the TV cameras.

Over the weekend, I wrote a resolution honoring the late Justice's amazing life. Normally, such measures are adopted with unanimous, bipartisan support. That is exactly what we did after Justice Scalia passed. Every Senator recognized that our collective eulogy was no place to debate political questions—oh, but not this time. This time, the Democratic leader copy-pasted the tribute I had written, put his name on top, and added two divisive references to our debate over what to do next. He didn't devote any time or attention to the language praising Justice Ginsburg's life and career. He did not suggest a single change to any of that. His sole focus was on turning a solemn routine and unanimous moment for Justice Ginsburg into a platform for himself.

Justice Ginsburg could not be more deserving of the honor of a formal Senate tribute. I hope our colleague from New York will let us pass one sometime soon.

SUPREME COURT NOMINATIONS

Mr. McCONNELL. Madam President, on another matter, I have already talked a lot about history this week, but before we shift focus to President Trump's nominee, we need to review Senate history one more time.

As we await the hurricane of misrepresentations and bad-faith attacks that seem almost guaranteed to pour out, we need to understand, in very clear terms, why our colleague from New York is a uniquely non-credible messenger when it comes to the Senate's role in judicial confirmations.

It was Senate Democrats who began our modern challenges with their treatment of Robert Bork in 1987, but the acrimony really got going in the early 2000s when a group of Senate Democrats took the almost-never-used tactic of filibustering nominations and turned it into a constant routine for the first time ever.

So who was the main driving force behind these tactics? Let's consult some New York newspapers from the year 2003:

Schumer decided [to] put ideology on the front burner in the confirmation process. . . . "I am the leader (of the filibuster movement), and you know, I'm proud of it," said the senator from Brooklyn.

Mr. Schumer urged Democratic colleagues . . . to use a tactic that some were initially reluctant to pursue, and that has since roiled the Senate.

Throughout President Bush 43's two terms, our colleague built an entire

personal brand out of filibustering judicial nominees. Talented, hard-working people's careers were destroyed, like the brilliant lawyer Miguel Estrada, a close friend of now-Justice Elena Kagan, who says he is "extraordinary" and "thoughtful" and would have made "an excellent addition to any Federal court." People like that, literally, were destroyed by Democratic tactics.

This version of the now-Democratic leader said filibustering judges was an essential part—an essential part—of the Senate. He said that if Republicans ever used the nuclear option to "change the rules in midstream" because "they can't get their way on every judge . . . it'll be a doomsday for democracy."

But of course, in the very next Presidential administration, the Democratic leader leapt at the chance to press that doomsday button himself. Democrats could not abide by President Obama's being constrained by the same rules they had imposed on President Bush. They had no patience to taste their own medicine. So the Democratic leader suddenly decided that "the old rules need to be modified." He voted to use the nuclear option to lower the bar.

So there actually has been one consistent principle all this time. For the Democratic leader, two things qualify as a crisis when it comes to the courts. The sky is falling when a Democratic President does not get to confirm every last judge he or she wants, and the sky is falling when a Republican President gets to confirm any judge.

Six months ago, our colleague walked across the street to the Supreme Court steps, stood in front of a crowd, and yelled:

I want to tell you, Gorsuch! I want to tell you, Kavanaugh! . . . You will pay the price! You won't know what hit you if you go forward with these awful decisions!

That is the Democratic leader in front of the Supreme Court of the United States.

Just last night he said this:

I tell the American people, everything you need and want, just about everything, will be taken away inexorably, month after month, year after year, decision by decision, by this new court.

That is the argument. That is, apparently, the argument. "Everything you need and want will be taken away." Is this a discussion among Senators or an overdramatic line from a bad movie?

The American people do not need any more revisionist history lectures, any more threats, or any more performance outrage from the side that launched this unfortunate fight and escalated it time after time after time.

There is one right path before us. It does right by the judiciary, the Senate, the yet-unnamed nominee, and the American people. It is a fair hearing, a fair process, and a fair vote. That is what the American people ensured in 2018 after the Democratic leader explicitly asked for a referendum on this approach to the judiciary. He got that referendum in 2018. The people decided. They shrunk his minority even further.

Americans took care to ensure Senate Democrats could not stand in the way of a fair process. So that is exactly what the Senate will provide.

GOVERNMENT FUNDING

Mr. McCONNELL. Madam President, now on another matter, yesterday the House passed a government funding resolution on a bipartisan basis. It will now make its way through the Senate.

A few days ago, when House Democrats released their first draft, Republicans immediately spoke out about a huge omission. It intentionally neglected the needs of farm country and rural America. They tried to use our Nation's farmers and ranchers as a bargaining chip.

Fortunately, thanks to the leadership of our colleague Senator ERNST, along with Senators HOEVEN, BOOZMAN, and many other Republican colleagues, we made it clear right away that we would not let Democrats leave farmers behind.

The Commodity Credit Corporation is an essential source of funding for our farmers. For years it has been routinely refilled with bipartisan support, but this year Speaker PELOSI tried to take Middle America hostage for unrelated political brinksmanship.

I am grateful to Senator ERNST and everyone who fought hard to fix the Democrats' bill. Republicans kept the Speaker of the House from adding insult to injury in such a challenging year for rural America.

I know all Members will carefully review the continuing resolution sent over by the House. I am optimistic that, with bipartisan cooperation, we will be able to make law well before the government funding deadline at the end of this month.

MEASURES PLACED ON THE CALENDAR—S. 4653 AND H.R. 8337

Mr. McCONNELL. Madam President, I understand there are two bills at the desk due a second reading en bloc.

The PRESIDING OFFICER. The clerk will read the bills by title for the second time.

The senior assistant legislative clerk read as follows:

A bill (S. 4653) to protect the healthcare of hundreds of millions of people of the United States and prevent efforts of the Department of Justice to advocate courts to strike down the Patient Protection and Affordable Care Act.

A bill (H.R. 8337) making continuing appropriations for fiscal year 2021, and for other purposes.

Mr. McCONNELL. In order to place the bills on the calendar under the provisions of rule XIV, I would object to further proceedings, en bloc.

The PRESIDING OFFICER. Objection having been heard, the bills will be placed on the calendar.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.